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OFFICE OF PETITIONS

In re Application of
Sean Farmer
Application No. 09/708,870
Filed: November 8, 2000
Attorney Docket No. 19374-509 (GND-09)

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 3, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight August 3, 2002.

In response to the non-final Office action, petitioner submitted with the instant petition \$665 for the petition to revive fee, an amendment with response, and \$740 for a four (4) months extension of time.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3), and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$740 extension of time submitted with the petition on November 26, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being forwarded to Technology Center 1600, for further review of the amendment and response filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

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for Patent Examination Policy